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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,406	03/10/2004	Jean Viaud	09217-US	5585

7590

01/26/2005

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EXAMINER

DURAND, PAUL R

ART UNIT

PAPER NUMBER

3721

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application N .

10/797,406

Applicant(s)

VIAUD ET AL.

Examiner

Paul Durand

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 November 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 3-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1 and 3-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regard to claim 1, in the amended subject matter, it is not clear from the wording of the claim what exactly "seizes" encompasses, making the new limitation difficult to understand.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1 and 3-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kluver et al (US 5,568,716) in view of Spatafora (US 5,722,214).

In regard to claims 1 and 8, Kluver discloses the invention substantially as claimed including bailing machine 10, wrapping roll 44 supplying sheets of wrapping material 42, feed elements in the form of drive roller 66 and a magnetic sensor 58, which detects the presence of the sheet material by sensing the feed of the material (see Figs. 1,2,5 and C6,L6-42). What Kluver does not disclose is the sensor that is capable of sensing the absence of material on the object itself. However Spatafora teaches that it is old and well known in the art of wrapping to provide a sensor in the form of finger 8, which senses the correct feed of wrapping material 3 around the object 15 for the purpose of ensuring a correctly wrapped product and properly fed wrapper (see Figs 2-4 and C3,L10-48). Therefore, it would have been an obvious to one having ordinary skill in the art at the time the invention was made to have provided the invention of Kluver with the sensing means as taught by Spatafora to ensure the correct feeding and wrapping of material.

In regard to claims 3-5, Kluver discloses the invention substantially as claimed including a sensor 58 located upstream of the packaging roll (see Fig.2). What Kluver does not disclose is a sensor that is located downstream of the packaging material and additional sensors to sense the material. However, it would have been an obvious to one having ordinary skill in the art at the time the invention was made to have provided a sensor located downstream at the end of travel of the wrapping material, since it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japiske, 86 USPQ 70. Furthermore, while Kluver only discloses one sensor to sense the feed material, it would have been an obvious to one having ordinary skill in the art at

the time the invention was made to have provided multiple sensors, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. St. Regis Paper Co. v. Bemis Co., 193 USPQ 8.

In regard to claims 6 and 7, Kluver discloses the invention substantially as claimed including and electronic control 94 which controls the feed of material 42 and with the sensor 58 and reed switch 61 working in conjunction with the control unit (see Fig.1 and C10,L48 – C11,L43).

### ***Response to Arguments***

6. Applicant's arguments, filed 11/8/2004, with respect to the rejection(s) of claim(s) 1 under § 102(b) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Kluver and Spatafora.

### ***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Durand whose telephone number is 571-272-4459. The examiner can normally be reached on 0730-1800, Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3721

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Paul Durand  
January 24, 2005

A handwritten signature in black ink, appearing to read 'Rinaldo I. Rada', with a long horizontal flourish extending to the right.

Rinaldo I. Rada  
Supervisory Patent Examiner  
Group 3700